UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

MICHAEL DAILEY, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 4:22-cv-00116-CDP
)	
BRIDGETON LANDFILL, LLC, et al.,)	
)	
Defendants.)	

PLAINTIFFS' MOTION TO REMAND

Plaintiffs, through undersigned counsel, respectfully ask this Court to remand this case to state court.

Cotter removed this case claiming federal question jurisdiction under the Price-Anderson Act ("PAA"), 42 U.S.C. § 2210. Cotter's removal is procedurally improper because it violates the rule of unanimity. *Marano Enterprises of Kansas v. Z-Teca Restaurants, L.P.*, 254 F.3d 753, 755 (8th Cir. 2001). It is also procedurally improper because there has been no "amended pleading, motion, order or other paper" to permit a second removal. 28 U.S.C. § 1446(b).

Moreover, the factual prerequisites required for removal are not satisfied because the radioactive wastes in question are not source, special nuclear or byproduct material. This is confirmed by Cotter's own testimony. Because Plaintiffs' claims do not arise from source, special nuclear, or byproduct material, there has been no "nuclear incident" to establish federal court jurisdiction. 42 U.S.C. § 2014 (q). Plaintiffs' Memorandum in Support of this Motion is filed contemporaneously herewith and sets forth in more detail the reasons why this Court does not have jurisdiction.

WHEREFORE, Plaintiffs respectfully ask this Court to remand this case to state court.

ORAL ARGUMENT REQUESTED

Pursuant to Local Rule 78-4.02, Plaintiffs request oral argument on their Motion to

Remand. Oral argument is warranted to provide the opportunity to further discuss the important

issues presented, the parties' position on these issues, and the cited case law. In particular, oral

argument will afford the parties an opportunity to discuss and answer any questions the Court may

have regarding the specific pleading deficiencies.

Dated: February 28, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served

on all counsel of record via the court's electronic filing system on February 28, 2022.

/s/ Ryan Keane